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## **INITIATIVE 892**

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 892 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to electronic scratch ticket machines; adding a new section to chapter 9.46 RCW; amending RCW 67.70.010 and 67.70.040; adding new sections to chapter 67.70 RCW; amending RCW 84.52.065; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

### **LEGISLATIVE INTENT**

NEW SECTION. **Sec. 1.** This measure would reduce state property taxes by allowing licensed non-tribal gambling establishments to offer the same type and number of electronic scratch ticket machines as tribal casinos with tax revenues generated used to reduce state property taxes. The total number of electronic scratch ticket machines would be capped and would not exceed the total allowed for tribal casinos. The intent of this measure is to create a more level playing field and more competition and for state property tax levies to be reduced as a result.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.46 RCW to read as follows:

(1) Licensed non-tribal gambling establishments shall be allocated the same type and number of electronic scratch ticket machines as tribal casinos with excise tax revenues generated therefrom used to reduce state property taxes. The total number of electronic scratch ticket machines for these establishments shall not exceed the total allocated for tribal casinos with allocation, regulation, and distribution implemented by the lottery commission according to the schedule set forth in this act.

(a) For the purposes of this act, "licensed non-tribal gambling establishments" shall be defined as establishments licensed by the gambling commission under this chapter or the horse racing commission under chapter 67.16 RCW and subject to their oversight, which includes, but is not limited to, nonprofit charities, restaurants, taverns, bowling alleys, horse racing facilities, and state-regulated, licensed house-banked card rooms.

(b) For the purposes of this act, "tribal casinos" shall be defined as casinos or other facilities subject to tribal-state class III gaming compacts in the state under RCW 9.46.360.

(c) For the purposes of this act, "type of electronic scratch ticket machines" includes types of machines of chance allowed at tribal casinos.

(d) For the purposes of this act, "electronic scratch ticket machines" are defined in section 4(7) of this act. "Electronic scratch ticket," for the purposes of this act, does not mean the Washington lottery.

(e) The cumulative number of each type of electronic scratch ticket machines allocated to licensed non-tribal gambling establishments shall not be allowed to exceed the cumulative number allocated to tribal casinos. Allocation, regulation, and distribution of the electronic scratch ticket machines shall be implemented by the lottery commission as set forth in this act.

(2)(a) A state excise tax is imposed on the privilege of operating non-tribal electronic scratch ticket machines. The amount of this tax shall be thirty-five percent of the net win from the operation of the electronic scratch ticket machines operated by licensed non-tribal gambling establishments.

(b) Ninety-nine percent of the proceeds of the state excise tax levied under this subsection, after state lottery commission administrative expenses for operating the system, shall be deposited in a new account hereby created called the Equal Treatment Equals Lower Property Taxes Account in accordance with section 8 of this act. All tax revenues in the account shall be used to reduce the subsequent year's state property tax levy as provided in section 3 of this act.

(3) The public health, safety, and welfare benefit by limiting electronic scratch ticket machines to venues that already are licensed to conduct gaming and where the presence of minors is prohibited. In furtherance of this purpose, the people declare that electronic scratch ticket games are a legal form of gambling in the state of Washington. In addition, any electronic games approved under RCW 9.46.360 are authorized to the same extent and in the same manner as electronic scratch ticket machines are owned, operated, and regulated under this act.

**Sec. 3.** RCW 84.52.065 and 1991 sp.s. c 31 s 16 are each amended to read as follows:

(1) Subject to the limitations in RCW 84.55.010, in each year the state shall levy for collection in the following year for the support of common schools of the state a tax of three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(2) The state property tax levy for collection in the year 2006 and each subsequent year shall be reduced from the amount that would otherwise be levied under subsection (1) of this section by an amount equal to the previous year's total gross deposits to the Equal Treatment Equals Lower Property Taxes Account established in section 8 of this act. It is the intent of this act that revenue for the support of common schools is not reduced.

(3) As used in this section, "the support of common schools" includes the payment of the principal and interest on bonds issued for capital construction projects for the common schools.

**Sec. 4.** RCW 67.70.010 and 2002 c 349 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Cashless transaction system" means the method by which a player obtains, transfers, and redeems game play credits. The cashless transaction system permits a player to play the electronic scratch ticket machine without inserting cash, including coins, tokens, or paper currency, into, and to win game play credits from, the player terminal. The player terminal shall not dispense cash, but shall only dispense game play credits available to the player and game result information;

(2) "Central accounting and auditing computer system" means a computer system or systems operated by the lottery commission that provide a secure means to monitor, receive, store and access data, and record critical functions and activities of the player terminals;

(3) "Central computer" means a computer or computers that conduct random drawings for electronic scratch ticket games and stores and dispenses electronic scratch tickets from scratch ticket game subsets that have been loaded into it from a manufacturing computer and are maintained in a secure manner;

(4) "Commission" or "lottery commission" means the state lottery commission established by this chapter;

((+2)) (5) "Director" means the director of the state lottery established by this chapter;

((+3)) (6) "Electronic scratch ticket" means a predetermined winning or losing outcome in electronic form. Each electronic scratch ticket represents a chance from among the finite set of chances that comprise an electronic scratch ticket game set;

(7) "Electronic scratch ticket game" or "electronic scratch ticket machine" means a scratch ticket lottery game, together with its respective operating system or systems, that is played in an electronic environment. A game has a specific set of rules including: The theme and types of symbols used; the total number of tickets in the game; the ratio or mix of winning and losing tickets; the prize structure, including number and dollar value of each prize; and the price of a single ticket. The game is played by use of computer hardware and software to manufacture, store, distribute, sell, and display scratch tickets to players. An electronic scratch ticket game or electronic scratch ticket machine includes: The licensed systems that are connected to an electronic central accounting, auditing, and communication computer system within the commission's control; a cashless transaction system; player terminals with video displays that allow players to purchase chances and obtain game result information; a manufacturing computer that securely creates the finite set of chances used in the scratch ticket portion of the system; and a central computer containing an electronic accounting system. The electronic scratch ticket game or electronic scratch ticket machine contains preexisting scratch tickets that are dispensed in an electronic format to players through the player terminals on an on-demand basis;

(8) "Electronic scratch ticket game set" means a finite set of electronic scratch tickets that is based on a template that has been designed in accordance with a specific set of rules, including the basic requirements of game sets and subsets, governing the structure of an electronic scratch ticket game. Based on that template, an electronic scratch ticket game set is created in a manufacturing computer in a secure and verifiable electronic form before the play

of an electronic scratch ticket game. Each electronic scratch ticket game set is uniquely identifiable, by serial number or otherwise, so that it can be distinguished from other game sets manufactured from the same template. All electronic scratch tickets in a particular game set shall be of the same price, not to exceed the amount allowed for tribal casinos, but a single ticket may offer more than one opportunity to win a prize on the same wager;

(9) "Electronic scratch ticket game subset" means a defined group of electronic scratch tickets that has been randomly selected from an electronic scratch ticket game set and transmitted to a central computer in a fixed order for play. Each electronic scratch ticket game subset is uniquely identifiable from all other subsets selected from the game set;

(10) "Game play credits" means the method of representing value obtained from the exchange of cash or cash equivalents, or earned as a prize, that is used to effectuate play. Game play credits may be redeemed for cash or a cash equivalent;

(11) "Licensee" means a person or entity licensed by the lottery commission to operate electronic scratch ticket machines.

(12) "Lottery" or "state lottery" means the lottery established and operated pursuant to this chapter, except when the context indicates otherwise;

((+4)) (13) "Net win" means gross wagers received by a licensee from the operation of an electronic scratch ticket game system less the amount paid to players for winning wagers, the actual cost of merchandise prizes awarded, accrual of prizes for progressive jackpot contests, and repayment of amounts used to seed guaranteed progressive jackpot prizes;

(14) "On-line game" means a lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols, type and amount of play, and receives a computer-generated ticket with those selections, and the lottery separately draws or selects the winning combination or combinations;

((+5)) (15) "Shared game lottery" means any lottery activity in which the commission participates under written agreement between the commission, on behalf of the state, and any other state or states.

**Sec. 5.** RCW 67.70.040 and 1994 c 218 s 4 are each amended to read as follows:

The lottery commission shall have the power, and it shall be its duty:

(1) To promulgate reasonable rules governing electronic scratch ticket games, electronic scratch ticket machines, and other aspects of carrying out this act, and such rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares. The use of electronic or mechanical devices or video terminals which allow for individual play against such devices or terminals shall be prohibited. Approval of the legislature shall be required before entering any agreement with other state lotteries to conduct shared games;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares ((which)) except prizes for electronic scratch ticket games. Prizes for electronic scratch ticket games must be paid out in full upon demand at the licensed non-tribal gambling establishment. The lottery commission may promulgate reasonable rules for the withholding of child support obligations, taxes, or similar obligations but prizes for electronic scratch ticket games must be paid out at the licensed non-tribal gambling establishment, not a lottery commission office. For the Washington lottery, prizes may, at the director's option, ((may)) be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares except for electronic scratch ticket games. Approval of the legislature is required before conducting any on-line game in which the drawing or selection of winning tickets occurs more frequently than once every twenty-four hours;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold, except that electronic scratch ticket sales are subject to the limits and locations specified in section 10 of this act;

(h) The method to be used in selling tickets or shares;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid to licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public, except that compensation to licensees of electronic scratch ticket machines shall be governed by section 8 of this act;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among:  
(i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery or the percent specified in section 8 of this act for electronic scratch tickets, (ii) transfers to the lottery administrative account created by RCW 67.70.260, and (iii) transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050. The apportionment of total revenues from electronic scratch ticket sales shall be governed by section 8 of this act;

(l) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and electronic scratch ticket games and electronic scratch ticket machines, and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket. For electronic scratch tickets, the licensed non-tribal gambling establishment shall conspicuously display an estimate of the probability of purchasing winning tickets at the facility.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable, consistent with the intent of this act that the type and number of electronic scratch ticket machines should be equal among licensed non-tribal gambling establishments and tribal casinos.

(4) To advise and make recommendations to the director for the operation and administration of the lottery.

The intent of this act is that the lottery commission shall carry out this act. The Washington state gambling commission or Washington horse racing commission shall license the licensed non-tribal gambling establishments providing the electronic scratch ticket machines under their existing powers pursuant to chapter 9.46 or 67.16 RCW.

**NEW SECTION. Sec. 6.** (1)(a) The maximum number of player terminals per licensed location is as follows:

(i) To the top forty gross receipts charitable or nonprofit operations conducting bingo games, one hundred twenty-five player terminals per licensed location;

(ii) To house-banked card rooms operating at least five house-banked card tables and to horse racing facilities, one hundred twenty-five player terminals per licensed location;

(iii) To persons, associations, or organizations primarily engaged in the selling of food or drink for consumption on the premises and bona fide charitable or nonprofit organizations that conduct bingo games, or use punch boards or pull-tabs other than those in (a)(i) of this subsection as follows:

annual gross gambling receipts	maximum number of player terminals allowed per licensed location
\$0 - 200,000	4 (All licensees in this license class shall be guaranteed a minimum of 4 player terminals)
\$200,001 - 300,000	5
\$300,001 - 400,000	6
\$400,001 - 500,000	7
\$500,001 - 600,000	8
\$600,001 - 700,000	10
\$700,001 - 800,000	12
\$800,001 - 1,000,000	14
\$1,000,001 - 1,250,000	16
\$1,250,001 - 2,000,000	18
\$2,000,001 - 2,500,000	20
\$2,500,001 - 3,000,000	22
\$3,000,001 and up	24

(b) For purposes of the initial allocation of player terminals under section 7(1) (a) and (b) of this act and (a)(i) and (ii) of this subsection, the number of available machines in each category will be divided by the number of eligible licensees in that category, and no licensee can be awarded more than the resulting arithmetic average in their category.

(c) For purposes of the initial allocation of player terminals to licensees under section 7(1)(c) of this act and (a)(iii) of this subsection, gross gambling receipts shall be calculated and determined by the commission using a licensee's annual gross gambling receipts for any active years of operation in 1999 through 2002. However, licensees who operated for partial years or less than the

full four years during this period shall have their gross gambling receipts annualized and calculated accordingly.

(2) For purposes of player terminal allocations after the initial January 1, 2005, allocation, the lottery commission shall determine on January 1st of every year the total available number of player terminals to be allocated to licensees in each category established in subsection (1)(a)(i) and (ii) of this section in each allocation pool created in section 7(1) of this act. The number of player terminals that may be awarded to any applicant in that ensuing year shall be determined by dividing the number of available player terminals in an allocation pool by the number of qualified applicants in that pool. Each allocation pool consists of those player terminals not allocated in previous years, forfeited player terminals, plus additional player terminals, if any, that become available as a result of new tribal-state compacts or by amendments to tribal compacts. However, licensees that become eligible for player terminals after January 1st of any given year may be awarded player terminals by the lottery commission only to the extent there are player terminals available for allocation within the particular category. Such a licensee may not receive more than the arithmetic average of player terminals as determined by the lottery commission on the immediately preceding January 1st.

(3) Within each category established under subsection (1)(a)(i) and (ii) of this section, no licensee can be awarded more than the arithmetic average of all the applications divided into the number of player terminals available in the allocation pool. Licensees shall be prioritized within each category established under section 7(1) of this act for review for new or additional player terminals under this section based upon the effective date of their underlying gambling license issued by the gambling commission. Electronic scratch ticket game licensees within each category established under section 7(1) of this act may continue to request additional player terminals subject to the maximum number of player terminals per licensed location established in this section.

**NEW SECTION. Sec. 7.** (1) The maximum number of electronic scratch ticket game player terminals shall be determined as of January 1, 2005, for the initial allocation and January 1st of every year thereafter for future allocations as set forth in section 6 of this act and is set at the number authorized at any given time based upon the cumulative number of electronic scratch ticket game player terminals authorized under all current tribal-state class III gaming compacts in the state. Of this maximum number, the following distribution is established:

(a) Fifteen percent of the player terminals to the top forty gross receipt charitable or nonprofit operations conducting bingo games licensed as of January 1, 2005, with an established maximum number of player terminals per licensed location as set forth in section 6 of this act;

(b) Thirty-six percent of the player terminals to house-banked card rooms operating at least five house-banked card tables and to horse racing facilities with an established maximum number of player terminals per licensed location as set forth in section 6 of this act; and

(c) Forty-nine percent of the player terminals to: (i) Persons, associations, or organizations primarily engaged in the selling of food or drink for consumption on the premises using punch boards or pull-tabs; and (ii) bona fide charitable or nonprofit organizations conducting bingo games other than those in (a) of this subsection, or using punch boards or pull-tabs with an established maximum number of

player terminals per licensed location as set forth in section 6 of this act.

(2) Electronic scratch ticket licensed locations under this chapter shall not be licensed for player terminals under more than one of the three categories described in section 6 of this act.

**NEW SECTION. Sec. 8.** (1) The payment of prizes to the holders of winning tickets or shares shall not be less than seventy-five percent of the gross annual revenue from electronic scratch ticket games.

(2) The net win, less the licensee's proportionate share set forth in subsection (4) of this section, shall be transferred into the Electronic Scratch Ticket Account created in section 12 of this act.

(3) The money in the Electronic Scratch Ticket Account shall be expended as follows:

(a) Amounts reasonably necessary to administer the electronic scratch ticket games and electronic scratch ticket game and central computer and central accounting and auditing systems shall be expended by the lottery commission;

(b) Ninety-nine percent of the amount remaining after administrative expenses in (a) of this subsection shall be deposited in the Equal Treatment Equals Lower Property Taxes Account. The Equal Treatment Equals Lower Property Taxes Account shall be used to lower the subsequent year's state property tax levy as provided in section 3 of this act. This account is created in the custody of the state treasurer. All receipts from the Equal Treatment Equals Lower Property Taxes Account must be deposited into the account. Only the director of the lottery commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(c) One percent of the amount remaining after administrative expenses in (a) of this subsection shall be dedicated exclusively for distribution to a contractor under section 11(3) of this act subject to appropriation.

(4) Sixty-five percent of the net win shall remain with the individual electronic scratch ticket licensee from which the licensee is obligated to pay its licensing fees and other expenses, including costs associated with owning and operating electronic scratch ticket player terminals.

**NEW SECTION. Sec. 9.** (1) Play of all electronic scratch ticket games is restricted to players who are twenty-one years of age or older. Electronic scratch ticket licenses shall not be issued to agents registered to sell lottery tickets in venues such as convenience stores or other locations readily accessible to minors, but shall be restricted to the authority granted by this chapter.

(2) Placement of player terminals for electronic scratch ticket games shall only be allowed on premises and in areas of premises: (a) meeting the liquor control board's requirements for barrier and signage as contained in WAC 314-02-050(1) as it exists on the effective date of this act, and (b) on the premises or portion of the premises where persons under twenty-one are not permitted.

(3) Duties of employees who are under twenty-one shall comply with the provisions of chapter 66.44 RCW and the rules adopted by the liquor control board under that chapter.

**NEW SECTION. Sec. 10.** (1) Electronic scratch ticket sales are limited to bona fide charitable or nonprofit organizations that conduct bingo games, punch boards, or pull-tabs, as authorized under



RCW 9.46.0311; an association or organization primarily engaged in the selling of food and beverages for on-premise consumption that uses punch boards or pull-tabs or both, or house-banked card games operating at least five house-banked card tables as authorized under RCW 9.46.0325; and horse racing facilities under chapter 67.16 RCW. An electronic scratch ticket license may be revoked if the licensee fails to maintain a license in good standing pursuant to RCW 9.46.070.

(2) Electronic scratch ticket game player terminals must use a cashless transaction system. Electronic scratch ticket game player terminals must operate off the central computer linked to a central accounting and auditing computer system. Licensees for electronic scratch tickets may own and operate the player terminals as long as the equipment meets certification requirements under this chapter.

(3) The lottery commission shall issue a license to sell or distribute electronic scratch tickets only if: (a) the licensee has a valid license issued under RCW 9.46.070 and: (i) is operating bingo or using punch boards or pull-tabs under RCW 9.46.0311, or (ii) is using punch boards or pull-tabs or both, or operating social card games of at least five house-banked card tables under RCW 9.46.0325, or (b) is a licensed horse racing facility under chapter 67.16 RCW. An applicant for licensee of electronic scratch tickets must have maintained a valid license issued under RCW 9.46.070 or have been a valid horse racing facility for six months consecutively preceding issuance of a license under this chapter.

(4) The lottery commission may contract with private testing laboratories or with a laboratory on contract with the gambling commission for certification that electronic scratch ticket game equipment meets the requirements of this chapter. The manufacturer has the burden of establishing that its equipment meets certification requirements.

(5) Electronic scratch ticket licensees may lease their allotted machines to other licensees and may also revenue-share with persons or entities, including route operators, distributors, and manufacturers licensed by the lottery commission to engage in such activity. Licensees' lease of allotted machines or contracts with a route operator, distributor, or manufacturer must be in writing, signed by the parties, and submitted to the lottery commission before the installation of player terminals.

**NEW SECTION. Sec. 11.** (1) The lottery commission may enforce the provisions of RCW 9.46.071 and 9.46.072 relative to licenses issued for electronic scratch tickets.

(2) The lottery commission shall require a label on each player terminal that prominently displays the Washington problem gambling helpline number.

(3) Pursuant to chapter 43.20A RCW, the department of social and health services shall contract with a nonprofit entity incorporated in Washington state dedicated to the provision of public awareness, education, prevention, helpline services, treatment, professional training, counselor certification, research, and other services necessary to address problem gambling in Washington to implement a program that addresses problem gambling.

**NEW SECTION. Sec. 12.** There is hereby created and established a separate account, to be known as the Electronic Scratch Ticket Account. This account is created in the custody of the state treasurer. All receipts from the tax imposed in section 2 of this act and all other money credited or transferred thereto from any other fund or source pursuant to law must be deposited into the account. Only the director of the lottery commission or the

director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 13.** The lottery commission shall immediately suspend any certification of licensure issued for electronic scratch tickets if the holder of the certificate has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of licensure shall be automatic upon the lottery commission's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. **Sec. 14.** Information obtained by the gambling commission pursuant to its background check investigation under RCW 9.46.070 shall be provided to the lottery commission for each applicant for an electronic scratch ticket license. Applicants for an electronic scratch ticket license are subject to the background check investigation requirements of the gambling commission under RCW 9.46.070.

NEW SECTION. **Sec. 15.** The lottery commission shall develop reasonable rules to implement this act, which include, but are not limited to, rules applicable to circumstances where pending applications within each category established under section 7(1) of this act request more player terminals than are arithmetically available for allocation; rules regarding prize payments over six hundred dollars; and implementation provisions that enable the intent of this act to take effect. It is the intent of the people to expeditiously implement this act and maximize revenue through operation of electronic scratch ticket games in limited regulated venues, which should not be hampered through the rule-making processes. Rulemaking shall be expedited in order to meet this intent.

NEW SECTION. **Sec. 16.** Sections 6 through 15 of this act are each added to chapter 67.70 RCW.

NEW SECTION. **Sec. 17.** The provisions of this act are to be liberally construed to effectuate the policies, purposes, and intent of this act.

NEW SECTION. **Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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